

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI EX REL.  
DEUTSCHE BANK NATIONAL  
TRUST COMPANY AS TRUSTEE  
FOR SOUNDVIEW HOME LOAN  
TRUST 2006-WF2**

**RELATOR,**

**v.  
THE HONORABLE DAVID P.  
CHAMBERLAIN, JUDGE OF THE  
CIRCUIT COURT OF CLAY COUNTY**

**RESPONDENT.**

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DOCKET NUMBER WD74826  
DATE: April 10, 2012

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Appeal From:

Clay County Circuit Court  
The Honorable David P. Chamberlain, Judge

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Appellate Judges:

Writ Division: James J. Smart, Jr., Presiding Judge, Mark D. Pfeiffer, Judge and Cynthia L. Martin Judge

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Attorneys:

Jennifer A. Donnelly, Kansas City, MO, for relator.  
Gregory A. Leyh, Gladstone, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

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No. WD74826

Clay County

Before Writ Division: James J. Smart, Jr., Presiding Judge, Mark D. Pfeiffer, Judge and  
Cynthia L. Martin Judge

Deutsche Bank National Trust Company seeks a writ of prohibition to prevent enforcement of an order compelling discovery in an unlawful detainer action on the subject of its standing.

**Preliminary Writ of Prohibition Made Absolute**

Writ Division holds:

(1) Prohibition is an appropriate remedy when a trial court makes an order in discovery proceedings that is an abuse of discretion.

(2) Unlawful detainer is a statutory remedy of a summary nature, such that the ordinary rules and proceedings of other civil actions do not apply.

(3) By statute, the principle issue in an unlawful detainer action is the immediate right of possession. As such, the legislature has narrowly defined the proof required of a plaintiff in an unlawful detainer action, and has excluded from the plaintiff's required proof any inquiry into the merits of title.

(4) In keeping with the legislature's clear and unambiguous directive, Missouri courts has uniformly held that issues relating to title or matters of equity cannot be interposed as a defense in an unlawful detainer action.

(5) Creatively characterizing discovery as related to the issue of the standing possessed by an unlawful detainer plaintiff who is the purchaser at a foreclosure sale is indistinguishable from an inquiry into the merits of title.

(6) The purchaser at a foreclosure sale has statutorily conferred standing to pursue an unlawful detainer action.

(7) A dispute as to the lawfulness of a foreclosure proceeding does not divest the purchaser at a foreclosure sale of the statutorily conferred standing to pursue an unlawful detainer action. The process through which title was obtained following a foreclosure sale cannot be equitably attacked in an unlawful detainer action.

(8) Tension between bare evidence of ownership following foreclosure affording the right to exercise the remedy of unlawful detainer, and equitable claims that ownership has been procured through invalid means which can be asserted in an independent action, must be addressed by the legislature. Missouri courts have no authority under the guise of interpreting a statute to rewrite the statute when its terms are plain, clear, and unambiguous.

(9) The trial court abused its discretion in entering its order compelling Deutsche Bank to respond to discovery that inquires into the merits of Deutsche Bank's title under the guise of contesting standing.

Opinion by Cynthia L. Martin, Judge

April 10, 2012

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